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## **Statutes & Regulations**

### **Legalized Games of Chance Control Commission**

Division of Consumer Affairs

N.J. Department of Law & Public Safety

As of July 2001

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# Amusement Games

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# New Jersey Statutes Annotated

## Title 5, Chapter 8.

### Legalized Games of Chance

#### ARTICLE 4. AMUSEMENT GAMES

##### 5:8-78. Amusement games control commissioner

The office of Amusement Games Control Commissioner is hereby created. The director of the Division of Alcoholic Beverage Control shall be the Amusement Games Control Commissioner and shall serve during the term of office of the Governor appointing him and until the director's successor is appointed and has qualified. In the event of the absence or inability of the director to act for any cause or in the event of the death of the director, 1 of the deputy directors of the Division of Alcoholic Beverage Control designated by the director shall have power to perform all of the duties of the Amusement Games Control Commissioner until a successor has been appointed and qualified. The director shall perform the duties of the Amusement Games Control Commissioner without salary therefor. All fees paid to the Amusement Games Control Commissioner pursuant to law shall be remitted by him to the State Treasurer. The office of Amusement Games Control Commissioner shall be allocated within and be a bureau of the Division of Alcoholic Beverage Control within the Department of Law and Public Safety.

##### 5:8-79. Supervision of administration of Amusement Games Licensing Law; rules and regulations

The said commissioner shall supervise the administration of the Amusement Games Licensing Law<sup>1</sup> and he shall from time to time make and promulgate rules and regulations governing licenses issued pursuant to said law, and the holding, operating and conducting of amusement games under such licenses. The said rules and regulations shall have the force of law and shall be binding upon all municipalities issuing such licenses and upon all licensees thereunder. The purpose of the said rules and regulations shall be to insure the issuance of such licenses to qualified licensees only and to provide that the amusement games shall be fairly and properly conducted in accordance with said law and to provide uniformity in the administration of said law throughout the State. The commissioner shall prescribe forms for applications for licenses, amendments of licenses, reports of the conduct of games and other matters incidental to the administration of said law.

The said rules and regulations shall also provide for applications to, and certifications by, the commissioner with respect to the specific kind of game or games intended to be held, operated and conducted, and the rules for the playing of the game or games and that they are of the character permitted by the Amusement Games Licensing Law. Whenever the commissioner shall deem it to be necessary, the said certifications may impose a limit or limits on the number of prizes or the number of specific kinds of games which may be held, operated or conducted by any 1 licensee, directly or indirectly, or in which such licensee or other person having an interest therein may have an interest, and also for such other controls as the commissioner shall deem to be suitable and proper, particularly such as shall be ascertained from the experience of operations under said law and this act. The said certifications shall also be designed to prevent monopoly, undue or unfair competition among licensees or with operations conducted pursuant to the Bingo Licensing Law (P.L.1954, c. 6) <sup>2</sup> or the Raffles Licensing Law (P.L.1954, c. 5), <sup>3</sup> and to prevent false, misleading or uninformative representations or concealment and to restrict excessive advertising or other acts, conduct or behavior which may tend to a misuse of the activities permitted by the Amusement Games Licensing Law or the participation in the benefits of the carrying on of activities thereunder, directly or indirectly, by or for the benefit of any person or persons not eligible to receive licenses thereunder.

The said rules and regulations may also provide for and establish procedures, forms and other documents in connection with the application for, and the issuance of, licenses, determinations thereon, hearings, appeals, grants, refunds, suspensions or revocations of licenses, reports, questionnaires, and any other matters connected with the exercise of any power vested in said commissioner by law.

<sup>1</sup>Section 5:8-100 et seq.

<sup>2</sup>Section 5:8-24 et seq.

<sup>3</sup>Section 5:8-50 et seq.

#### **5:8-79.1. Rules and regulations of amusement games control commissioner**

The rules and regulations to be made and promulgated by the Amusement Games Control Commissioner, in addition to provisions authorized by any other law, shall also provide for applications to, and certifications by, the commissioner with respect to the specific kind of game or games intended to be held, operated and conducted, and the rules for the playing of the game or games and that they are of the character permitted by the

Amusement Games Licensing Law.<sup>1</sup> Whenever the commissioner shall deem it to be necessary, the said rules, regulations and certifications may impose a limit or limits on the number of places or the number of specific kinds of games which may be held, operated or conducted by any 1 licensee, directly or indirectly, or in which such licensee, or any other person having an interest therein, may have an interest, and also for such other controls as the commissioner shall deem to be suitable and proper, particularly such as shall be ascertained from the experience of operations under said law and this act and for the purposes thereof. The said certifications shall also be designed to prevent monopoly, undue or unfair competition among licensees or with operations conducted pursuant to the Bingo Licensing Law (P.L.1954, c. 6)<sup>2</sup> or the Raffles Licensing Law (P.L.1954, c. 5),<sup>3</sup> and to prevent false, misleading or uninformative representations or concealment and to restrict excessive advertising or other acts, conduct or behavior which may tend to a misuse of the activities permitted by the Amusement Games Licensing Law or the participation in the benefits of the carrying on of activities thereunder, directly or indirectly, by or for the benefit of any person or persons not eligible to receive licenses thereunder.

The said rules and regulations may also provide for and establish procedures, forms and other documents in connection with the application for, and the issuance of, licenses, determinations thereon, hearings, appeals, grants, refusals, suspensions or revocations of licenses, reports, questionnaires, and any other matters connected with the exercise of any power vested in said commissioner by law.

<sup>1</sup>Section 5:8-100 et seq.

<sup>2</sup>Section 5:8-24 et seq.

<sup>3</sup>Section 5:8-50 et seq.

## **5:8-79.2.           Effective date; operative upon approval by voters of Amusement Games Licensing Law**

This act shall take effect immediately, but shall be inoperative unless and until an “Amusement Games Licensing Law”<sup>1</sup> is enacted by the Legislature and is approved by a majority of the legally qualified voters of the State voting on the question of such approval at a general election.

<sup>1</sup>Section 5:8-100 et seq. approved at General Election in Nov. 1959.

**5:8-80. Filing of rules and regulations; availability of copies to municipalities**

A copy of every rule and regulation made and promulgated by the commissioner shall be filed in the office of the Secretary of State before it shall become effective and copies thereof shall be made available to the various municipalities operating under said law.

**5:8-81. Investigation of administration of Amusement Games Licensing Law in municipalities**

The commissioner shall conduct investigations of the administration of said law in such of the municipalities of this State as he shall deem desirable and as shall serve to furnish a cross section of all of the municipalities operating under said law in this State and shall receive and investigate complaints as to violations and evasions of said law in any municipality or municipalities.

**5:8-82. Authority to suspend and revoke licenses after hearing; penalty**

The commissioner shall have power to suspend and revoke licenses, after hearing, for violation of the law under which the license is issued or for violation of any provision of applicable law or of the rules and regulations made and promulgated by the commissioner.

As an alternative to any other sanctions herein or otherwise provided by law, any such violator shall be liable to a penalty of not more than \$250.00 for the first offense and not more than \$500.00 for the second and each subsequent offense.

The Superior Court and every municipal court shall have jurisdiction of proceedings for the collection and enforcement of a penalty imposed because of such violation, within the territorial jurisdiction of the court. The penalty shall be collected and enforced in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be either in the nature of a summons or warrant and shall issue in the name of the State upon the complaint of the commissioner.

Upon receiving evidence of any such violation, the commissioner is empowered to hold hearings upon said violation and upon finding the violation to have been committed, to assess a penalty against the person alleged to have committed such violation, and in such amount within the limits of this act as he deems proper under the circumstances. Any such

amounts collected by the commissioner shall be paid forthwith into the State Treasury for the general purposes of the State.

**5:8-83. Prosecutions**

The commissioner shall have power to institute prosecutions for the punishment of violations of said law or said rules and regulations.

**5:8-84. Hearing appeals**

The commissioner shall hear appeals from the determinations and action of the municipal governing bodies in connection with the refusal to issue licenses and the suspension and revocation of licenses in the manner prescribed by said law and the action and determination of the commissioner upon any such appeal shall be binding upon the municipal governing body and all parties thereto.

**5:8-85. Study and investigation of operation and administration of Amusement Games Licensing Law**

It shall be the duty of the commissioner to carry on continuous study and investigation of the operation of the Amusement Games Licensing Law,<sup>1</sup> and the administration thereof by the several municipalities of the State, throughout the State, for the purpose of ascertaining from time to time any defects in said law, which may be discovered, by reason whereof any abuses in the administration thereof and any evasions of the terms thereof may arise or be practiced, and for the purpose of formulating and recommending improvements and changes in said law and in any other laws of the State, which the commissioner may determine to be desirable to prevent such abuses and evasions and to guard against the use of said laws as a cloak for the carrying on of organized gambling and crime, and to insure that said laws shall be in such form and be so administered as to serve the true purposes for which they were enacted, namely, the operation and conduct of the amusement games therein described.

<sup>1</sup>Section 5:8-100 et seq.

**5:8-86. Study and investigation of similar laws**

The commissioner shall make a continuous study and investigation also of the operation and administration of similar laws which may be in effect in other States of the United States, and of any literature on the subject which from time to time may be published or be available.

**5:8-87. Holding of investigations and hearings; subpoena power**

The commissioner may hold investigations and hearings within or without the State and shall have power to compel the attendance of witnesses, the production of books and documents relating to transactions connected with the holding and conducting of amusement games under said law, and transactions, relating thereto, with those conducting the same by the issuance of subpoena signed by the commissioner which may be served by any person of full age.

**5:8-88. Self-incrimination**

No person shall have the privilege to refuse to disclose, in any proceeding before the commissioner, any matter which the Amusement Games Licensing Law<sup>1</sup> or this act or the rules and regulations promulgated under said laws require him to record or report or disclose, upon the ground that the same may tend to incriminate him or expose him to a penalty or forfeiture, in connection with any activity or occupation or calling of his which is governed by said laws or governing the corporation or association of which he is an officer, agent or employee.

<sup>1</sup>Section 5:8-100 et seq.

**5:8-89. Failure to obey subpoena or order; application for order to show cause**

If a person subpoenaed to attend any such investigation or hearing fails to obey the command of the subpoena with reasonable cause, or if a person in attendance in any such investigation or hearing refuses, without lawful cause, to be examined or to answer a legal or pertinent question or to exhibit any book, account, record or other document when ordered so to do by the commissioner holding such investigation or hearing, the commissioner may apply to any judge of the Superior Court, upon proof by affidavit of the facts, for an order returnable in not less than 2 nor more than 10 days, or as the court shall prescribe, directing such person to show cause before the court why he should not comply with such subpoena or such order.

**5:8-90. Return of order to show cause; examination under oath; order to comply with subpoena or order; contempt**

Upon return of the order, the court before whom the matter shall come on for hearing shall examine such person under oath, and if the court shall determine, after giving such person an opportunity to be heard, that he

refused without legal excuse to comply with such subpoena or such order of the commissioner holding such investigation, the court may order such person to comply therewith forthwith and any failure to obey the order of the court may be punished as a contempt of the Superior Court.

**5:8-91. Privilege from arrest**

A witness shall be privileged from arrest, in any civil action but not otherwise, during necessary attendance before the commissioner, at any place required by subpoena previously duly served, and during his going to and returning therefrom allowing 1 day for every 30 miles from his place of residence.

**5:8-92. Payment of witness fees**

Every witness shall be entitled to be paid for attendance or attendance and travel, by the party on whose behalf he is subpoenaed, at the rates prescribed by law, before being required to testify.

**5:8-93. Witness fee schedule**

Each witness attending any hearing or investigation shall be entitled to the following fees:

- (a) In his own county, per day of attendance, \$0.50;
- (b) From a foreign county, at the rate of \$1.00 per day, together with, for each day of attendance, an allowance of \$1.00 for every 30 miles of travel in going to the place of attendance from his place of residence and in returning.

**5:8-94. Expenses of commissioner; appointment of executive officer, advisors, assistants and investigators**

The commissioner is authorized to incur such necessary expenses, and engage and appoint an executive officer and such competent and expert advisors, and clerical and stenographic assistants and investigators, as he may deem necessary to the proper performance of the purposes of this act, and may fix their compensation within the limits of any sums appropriated or made available to the commissioner for such purposes. No investigator employed by the commissioner need be employed in accordance with the provisions of, or in any manner shall be subject to, the provisions of Title 11<sup>1</sup>, Civil Service, of the Revised Statutes.

<sup>1</sup>Repealed. See, now, Title 11A.

**5:8-95. Filing of municipal licensing ordinances with commissioner; reports by municipalities**

Each municipality, in which the Amusement Games Licensing Law<sup>1</sup> shall be operative, shall file with the commissioner a copy of each ordinance enacted pursuant thereto, within 10 days after the same is adopted, and on or before February 1 in each year, or at any other time or times which the commissioner may determine, make report to the commissioner of the number of licenses issued therein under said law, and the names and addresses of the licensees, the aggregate amount of license fees collected, the names and addresses of all persons detected of violation of said law or of the rules and regulations made by the commissioner pursuant hereto, and of all persons prosecuted for such violations and the result of each such prosecution, and the penalties imposed therein, during the preceding calendar year, or the period for which the report is required, as well as such other data or information as may from time to time be required by the rules and regulations of the commissioner, which report may contain any recommendations for improvement of said law or the administration thereof, which the governing body of the municipality shall deem to be desirable.

<sup>1</sup>Section 5:8-100 et seq.

**5:8-96. Report of commissioner to governor and legislature; recommendations**

The commissioner shall report to the Governor and the Legislature annually with his recommendations, if any, and if in the meantime he shall discover any matters which shall require immediate change in said law in order to prevent abuses and evasions thereof or rectify undesirable conditions in connection with the administration thereof, the commissioner shall make an interim report immediately to the Governor and the Legislature with his recommendations in order to afford opportunity for the Legislature to take immediate action thereon, if such action appears to be necessary.

**5:8-97. Delegation of taking of testimony to member of staff; recommendations to commissioner**

Whenever the commissioner is authorized to hold a hearing he may delegate the actual taking of testimony to any available member of the staff of the commissioner who shall hear the matter for the commissioner and report the same to the commissioner who, alone, shall have the final decision in the matter. The person so designated to hear the matter for the commissioner may make recommendations to the commissioner in respect to



the matter so heard, but the commissioner shall in nowise be bound by any such recommendation.

**5:8-98. Reports by licensees**

The commissioner may require periodical reports to be made to him by any licensees. The reports may call for information with respect to the amounts received from operation of the games, the time, character and cost of the prizes given to the players of such games, and such other matters as the commissioner may specify. Reports so required shall be filed at such times and upon such forms as the commissioner shall prescribe.

**5:8-99. Effective dates; operative upon enactment by legislature and approval by voters of Amusement Games Licensing Law**

This act shall take effect immediately but shall be inoperative unless and until an “Amusement Games Licensing Law”<sup>1</sup> is enacted by the Legislature and is approved by a majority of the legally qualified voters of the State voting on the question of such approval at a general election.

<sup>1</sup>Section 5:8-100 et seq.

**5:8-100. Short title**

This act shall be known as and may be cited as the “Amusement Games Licensing Law.”

**5:8-101. Authority of municipality to license owners and operators of amusement games**

It shall be lawful for the governing body of any municipality, at any time after this act shall become operative and except when prohibited by this act, to license the owner and operator of any amusement game or games, whether of skill or chance, or both and whether said game be played and operated with or without numbers or figures, to hold and operate such amusement game or games, which term is defined as a game or games played for amusement or entertainment, in which the person or player actively participates and the outcome of which is not in the control of the operator, and which is so conducted that the sale of a right to participate, the event which determines whether a player wins or loses and the award of the prize, all occur as a continuous sequence at the time when and place where the player or players are all present, provided that the same are to be held and operated at a recognized amusement park or at a seashore or other resort in that part thereof customarily constituting an amusement or entertainment area

according to the customary understanding of said terms in the community, and provided that the same shall be held, operated and conducted pursuant to this act and such license and the license issued by the State Amusement Games Control Commissioner, as hereinafter provided, and under such conditions and regulations for the supervision and conduct thereof as shall be prescribed by rules and regulations duly adopted from time to time by the Amusement Games Control Commissioner, not inconsistent with the provisions of this act, and for any person or persons to participate in and play such amusement games conducted under such licenses.

**5:8-102.           Application for municipal license; filing; contents; state license; annual fees**

Each applicant for such a license shall file with the clerk of the municipality a written application therefor in the form prescribed by the Amusement Games Control Commissioner, duly executed and verified, in which shall be stated the name and address of the applicant, together with sufficient facts relating to its incorporation and organization if the applicant be a corporation or organization; the specific kind of amusement games intended to be held, operated and conducted by the applicant, and the place or places where, the period, term, date or dates and the time or times when, such amusement games are intended to be conducted by the applicant, under the license applied for; and that no prize or prizes will be offered and given under said license except of merchandise only and same shall be of a value not in excess of the sum or value authorized to be offered and given by this act and such other information as shall be prescribed by the Amusement Games Control Commissioner.

Every such municipal license so issued shall be inoperative unless the licensee named therein shall also, within 90 days from the issuance thereof and prior to the conduct or operation of amusement games thereunder, procure a State license authorizing the licensee holding the municipal license to operate and conduct certain games according to the terms of such municipal license. The said State license shall be issued by the State Amusement Games Control Commissioner, if he finds that all of the conditions, terms and requirements of this act and of said rules and regulations have been fully met and complied with. As a condition of granting any such State license the applicant therefor shall pay to the said commissioner an annual fee of \$250.00. An applicant who is the owner of an arcade shall pay an additional annual fee of \$10.00 per machine for each machine over 50 machines. If any such municipal license authorizes the licensee to conduct and operate games at more than one place or of more than one specific

kind the applicant for the State license shall pay the said annual fee of \$250.00 for each such place and for each such specific kind.

For the purposes of this section, “arcade” means a place where a single player upon payment of a fee is permitted to play a machine or device to obtain a prize, ticket or token redeemable for a prize, or attain a score upon the basis of which a prize, ticket or token is awarded.

**5:8-103. Investigation by municipality; issuance of license; fees; removal of disqualification; notice of change in facts**

The governing body of the municipality shall make an investigation of the qualifications of each applicant and the merits of each application, with due expedition after the filing of the application, and if it shall determine that the applicant is duly qualified to hold, operate and conduct amusement games under the provisions of this act governing the issuance of licenses to hold, operate and conduct amusement games and the rules and regulations governing the holding, operation and conduct thereof in the municipality; that the individual applicant and the officers, directors and stockholders of any corporation holding 5% or more of the capital stock of any corporate applicant, as well as the partners or members, as the case may be, of any partnership, association or organization applicant, are persons of good moral character and have never been convicted of a crime or that such a disqualification has been removed by the commissioner; that such amusement games are to be held, operated and conducted in accordance with the provisions of this act and in accordance with the rules and regulations governing the holding, operation and conduct thereof and if the governing body is satisfied that the prize or prizes to be offered and given in any single game shall be of merchandise only of a retail value not in excess of \$15.00 and that no such prize or prizes will be redeemed or redeemable, directly or indirectly, for money, it shall issue a license to the applicant for the holding, operation and conduct of said amusement games applied for, accordingly, upon payment of a license fee or fees to be fixed by the governing body by ordinance taking into consideration the number of days or period upon or during which the licensee shall be authorized to operate or conduct the games, the number of units employed therein, the number of places, the number of specific kinds of games to be conducted and the number of persons who may become players of the games at any one time, but in no case less than \$10.00 for any one license for a period of 1 year or for a lesser term.

Any person who would be disqualified from holding a license under this act by reason of a conviction for a crime may apply to the commis-

sioner for removal of the disqualification. Such application may be made upon the expiration of a period of 5 years from the date of conviction or, if the applicant had been confined under sentence imposed as a result of the conviction, from the date of unrevoked release from that confinement. If the commissioner shall find that the applicant has conducted himself in a law abiding manner since his conviction or release from confinement and that the association of the applicant will not be contrary to the public interest, the commissioner shall remove such disqualification.

Whenever any change shall occur in the facts as set forth in any application for license, the licensee shall file with the municipal governing body and the commissioner a notice in writing of such change within 10 days after the occurrence thereof, and said notice of change shall thereupon become part of said application.

No license for the holding, operation and conduct of any game or games of amusement shall be issued under this act which shall be effective for a period of more than 1 year.

#### **5:8-104. Refusal to issue license; notice; hearing; additional licenses**

Where the issuance of licenses is authorized by the municipality no application for the issuance of a license shall be refused by the governing body until after a hearing is held on due notice to the applicant, at which the applicant shall be entitled to be heard upon the qualifications of the applicant and the merits of the application.

Any license issued under this act may be amended, upon application made to the governing body of the municipality which issued it, if the subject matter of the proposed amendment could lawfully and properly have been included in the original license and upon payment of such additional license fee, if any, as would have been payable, if it had been so included.

#### **5:8-105. Form of license; contents; display**

Each license shall be in such form as shall be prescribed in the rules and regulations promulgated by the commissioner and shall contain a description of the kind of amusement games authorized to be held, operated and conducted thereunder, a statement of the name and address of the licensee, and the place or places where and the period, term or date or dates and time or times when, such amusement games are to be conducted and any other information which may be required by said rules and regulations to be contained therein, and each license issued for the conduct of any

game or games of amusement shall be conspicuously displayed at the place or places where the same is to be conducted at all times during the conduct thereof.

**5:8-106. Control and supervision of amusement games by municipality; suspension and revocation of license; hearing; right of entry**

The governing body of any municipality issuing any license under this act shall have and exercise control and supervision over all amusement games held, operated or conducted under such license, to the end that the same are fairly held, operated and conducted in accordance with the provisions of such license, the rules and regulations promulgated by the commissioner and the provisions of this act governing the holding, operation and conduct of the same and such governing body and the commissioner shall have power and authority to suspend any license issued by such governing body and to revoke the same, after hearing, for any violation of any such provision, and shall have the right of entry, by its officers and agents at all times into any premises where any such amusement game is being held, operated and conducted or where it is intended that any such amusement game shall be held, operated and conducted, or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same.

**5:8-107. Maximum charges; value, determination and award of prizes**

The Amusement Games Control Commissioner shall determine the amount for any 1 game which shall be charged or accepted by any licensee from any 1 player or participant as an entry fee or payment for the privilege of participating therein. No prize or prizes shall be offered or given in any single game except of merchandise and the amount of the value of the merchandise prize or prizes so to be offered and given in any such game shall be determined by the commissioner and all winners shall be determined and all prizes shall be awarded in any game forthwith upon the completion of the game and before making or accepting any charge for participation in any subsequent game.

The commissioner shall make his determination pursuant to this section after a public hearing has been held thereon and subject to the provisions of P.L.1981, c. 27 (C. 52:14B-4.1 et seq.).

## **5:8-108. Examination of books and records**

The governing body of the municipality and the Control Commissioner shall have power to examine or cause to be examined the books and records of any licensee so far as they may relate to any transactions connected with the holding and conducting of any amusement game thereunder and to examine any manager, officer, director, agent or employee thereof under oath in relation to the conduct of any such amusement game under any such license but any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this act.

## **5:8-109. Appeals to amusement games control commissioner**

Any applicant for, or holder of, any license issued or to be issued under this act aggrieved by any action of the municipal governing body of the municipality to which such application has been made or by which such license has been issued, may appeal to the Amusement Games Control Commissioner from the determination of said governing body by filing with the governing body a written notice of appeal within 30 days after the determination or action appealed from, and upon the hearing of such appeal the evidence, if any, taken before the governing body and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue, and the action of the Control Commissioner upon said appeal shall be binding upon said governing body and all parties to said appeal.

## **5:8-110. Exemption from gaming and lottery laws**

No person or corporation

- (1) lawfully conducting, or participating in the conduct of,
- (2) possessing, selling or in any manner disposing of, any shares, tickets or rights to participate in, or
- (3) permitting the conduct upon any premises owned by him or it, of any amusement game conducted or to be conducted in compliance with any license lawfully issued and in force pursuant to this act, and in compliance with the rules and regulations of the Control Commissioner, shall be liable to prosecution or conviction for violation of any provision of chapters 112 and 121 of Title 2A, or of section 2A:170-18 of the New Jersey Statutes<sup>1</sup>, but this immunity shall not extend to any person or corporation knowingly conducting or participating

in the conduct of any amusement game under any license obtained by any false pretense or statement made in any application for such license or otherwise, or possessing, selling or disposing of shares, tickets or rights to participate in, or permitting the conduct upon any premises owned by him or it of, any amusement game conducted under any license known to him or it to have been obtained by any such false or fraudulent pretense or statement.

<sup>1</sup>Repealed; see, now, § 2C:37-1 et seq.

#### **5:8-111. Offenses; violators as disorderly persons; forfeiture of licenses**

Any person, association or corporation who or which shall make any false statement in any application for such license or shall fail to keep such books and records as shall fully and truly record all transactions connected with the holding, operating or conducting of amusement games under any such license or shall falsify or make any false entry in any books or records so far as they relate to any transaction connected with the holding, operating and conducting of any amusement game under any such license or shall violate any of the provisions of this act or of any term of such license shall be a disorderly person and if convicted as such shall, in addition to suffering any other penalties which may be imposed, forfeit any license issued to it under this act.

#### **5:8-112. Exceptions; bingo and raffles**

Nothing contained in this act shall be deemed to authorize the playing of bingo hereunder or to modify, change or supersede the bingo licensing law (P.L.1954, c. 6),<sup>1</sup> or the raffles licensing law (P.L.1954, c. 5),<sup>2</sup> except in regard to such raffles, other than draw raffles, where the prizes or awards to be given shall be of merchandise only of an aggregate retail value not in excess of \$15.00.

<sup>1</sup>Section 5:8-24 et seq.

<sup>2</sup>Section 5:8-50 et seq.

#### **5:8-113. Exceptions; playing other games or devices for money**

Nothing contained in this act shall be deemed to authorize the playing for money, or other valuable thing at roulette wheels, at cards, dice or other game, with 1 or more dice, or with any other instrument, engine or device in the nature of dice, having 1 or more figures or numbers, or at billiards, pool, tennis, bowls, or shuffleboard, or A.B.C. or E.O. tables, or at faro

bank, or other bank of a like nature by whatever name known, or with any slot machine or device in the nature of a slot machine. Nothing contained in this act shall be deemed to authorize bookmaking, off-track betting, pool selling, or the keeping of a gambling resort, or the racing for money or other valuable thing, by running, pacing or trotting of horses, mares or geldings, or the making or acceptance of any wager for money or other valuable thing conditioned in any way upon any occurrence at or upon the outcome of any athletic or sporting game or contest in which the person or player does not actively participate. For the purpose of this section "slot machines" or "devices in the nature of slot machines" are defined to be machines which operate mechanically, with the result principally controlled by the mechanical operation of the machines.

5:8-114. Repealed by L.1962, c. 200, § 4, eff. Dec. 18, 1962

5:8-115. Issuance of licenses after municipal approval of act; municipal referendum

Licenses issuable by a municipality under the provisions of this act may be issued only where in such municipality a majority of the votes cast therein upon the question whether this act shall be approved upon the submission of the question to the voters of all the State shall have been cast in favor of the adoption of this act. If the majority of the votes cast upon the said question of the adoption of this act in any municipality is against such adoption, then no license may be issued under this act by such municipality unless authorized by the votes cast on the question, in the municipality, by a municipal referendum as hereinafter provided in this act. If, in the municipality, a majority of the votes cast therein upon the question of whether this act shall be adopted is in the affirmative, such action by the voters of the said municipality shall be deemed to be an approval of the authority to the municipality to grant licenses under this act and such approval shall continue unless this act shall become inoperative in the municipality upon a referendum to the voters of the municipality as provided in this act.

5:8-116. Petition for municipal referendum; submission to voters; statement of question

Upon a petition signed by qualified voters of any municipality equal in number to at least 15% of the total number of votes cast therein at the latest preceding general election for members of the General Assembly and filed with the clerk of the municipality at least 60 days before such election, the governing body of the municipality shall provide for the submission to the legal voters of the municipality at such general election, the question of



whether this act shall become operative or cease to be operative in such municipality, as the case may be. If, upon such submission of the question, the majority of all the valid votes cast on the question shall be in favor of having this act inoperative in the municipality, then this act shall, 60 days thereafter, become inoperative in the municipality. The question shall be deemed to be a public question and shall be submitted to the voters as in the case of other public questions. The question shall be stated as follows:

<div data-bbox="142 516 165 542" data-label="Form"><input type="checkbox"/></div>	<div data-bbox="245 516 295 542" data-label="Text">Yes.</div>	<div data-bbox="339 389 956 1006" data-label="Text"> <p>Shall the act entitled “An act authorizing the conducting, operating and playing of certain amusement games, whether of chance or skill, or both, where the prizes or awards to be given shall be of merchandise only, of a retail value not in excess of \$15.00, and the charge for the privilege of playing shall not exceed \$0.25; providing for the licensing, regulation and control by a commissioner, of the conducting and operating of such games; providing restrictions as to the places where such games may be conducted and operated; providing that certain playing for money or other valuable things is not authorized; providing for the operation and inoperation of the act in any municipality when so determined by referendum vote therein; and providing for the submission of this act to legal voters of the State,” become ..... (insert operative or inoperative) in this municipality?</p> </div>
<div data-bbox="142 857 165 883" data-label="Form"><input type="checkbox"/></div>	<div data-bbox="245 857 288 883" data-label="Text">No.</div>	

In the blank space set forth in the above box, the word “operative” or “inoperative” shall be inserted in the question when it is submitted to the voters of the municipality according to whether this act became operative by reason of the vote on the question submitted to all the voters of the State as to whether this act should become operative. If a majority of the voters in the municipality who voted on the said general public question was in the affirmative and, thereby, under the provisions of this act, municipal licenses are authorized, then the word “inoperative” should be included in the above blank space, but if this act does not become operative in the municipality because a majority of the votes cast therein on the general public question was in the negative, then the word “operative” should be inserted in the above-mentioned blank space. If this act shall have become operative in any municipality by reason of a referendum vote therein, as

herein provided, and a further referendum is authorized to determine the question of whether this act shall become inoperative notwithstanding such previous approval by the voters, then the word “inoperative” should be inserted in the above blank space.

**5:8-117. Submission of act for approval by people**

For the purpose of complying with the provisions of the State Constitution this act shall be submitted to the people for their approval or rejection at the next general election.

**5:8-118. Official ballot; contents**

There shall be printed on each official ballot to be used at such election the following:

If you favor making the act entitled below operative within the State, and operative within this municipality, make a cross X, plus + or check √ in the square opposite the word “Yes.”

If you are opposed to making the act entitled below so operative, make a cross X, plus + or check √ in the square opposite the word “No.”

<input type="checkbox"/>	Yes.	Shall the act entitled “An act authorizing the conducting, operating and playing of certain amusement games, whether of chance or skill, or both, where the prizes or awards to be given shall be of merchandise only, of a retail value not in excess of \$15.00, and the charge for the privilege of playing shall not exceed \$0.25; providing for the licensing, regulation and control by a commissioner, of the conducting and operating of such games; providing restrictions as to the places where such games may be conducted and operated; providing that certain playing for money or other valuable things is not authorized; providing for the operation and inoperation of the act in any municipality when so determined by referendum vote therein; and providing for the submission of this act to legal voters of the State,” become operative within this State,” become operative within this State?
<input type="checkbox"/>	No.	

The date of the approval or passage of this act, as the case may be, shall be inserted in the appropriate place after the title.

In any election district in which voting machines are used the question shall be placed upon the official ballot to be used upon the voting machines with the foregoing instructions to the voters but with instructions to vote “Yes” or “No” by the use of such machines and without marking as aforesaid.

**5:8-119. Act effective upon approval by majority of votes cast**

If at such election a majority of all the votes cast both for and against the approval of this act shall be cast in favor of the approval thereof, then all of its provisions shall forthwith take effect.

**5:8-120. Effective date**

This section and sections 18, 19 and 20 of this act<sup>1</sup> shall take effect immediately and the remainder of this act shall take effect as hereinbefore provided.

<sup>1</sup>Section 5:8-117 to 5:8-119.

**5:8-121. Extension of Amusement Games Licensing Law to include agricultural fairs and exhibitions**

The “Amusement Games Licensing Law,” to which this act is a supplement, is hereby extended to include associations organized for the purpose of holding agricultural fairs and exhibitions and the places where such agricultural fairs and exhibitions are held.

**5:8-122. Eligibility of licensee; approval of department of agriculture**

Any association organized for the purpose of holding agricultural fairs and exhibitions, which is approved by the State Department of Agriculture for participation in any or all State sponsored programs relative to the promotion of agriculture and the advancement of agricultural interests in this State, shall be eligible to be a licensee under the “Amusement Games Licensing Law.”<sup>1</sup> Any such approval shall be evidenced by a certificate thereof issued by the said Department of Agriculture.

<sup>1</sup>Section 5:8-100 et seq.

**5:8-123. Authority to conduct games; place of conducting games**

A licensee under the “Amusement Games Licensing Law” may conduct an amusement game or games at a place or places where any such approved association holds an agricultural fair and exhibition.

**5:8-124. Applicability of Amusement Games Licensing Law**

Except as otherwise provided herein, the provisions of the “Amusement Games Licensing Law” <sup>1</sup> shall be applicable to the said associations and places.

<sup>1</sup>Section 5:8-100 et seq.

**5:8-125. State license; annual fee**

As a condition of granting a State license to any such association, where the said association is itself to operate an amusement game or amusement games, the association shall pay an annual fee of \$50.00 per game; except that, any association which is nonprofit shall be exempt from payment of any State license fee if the proceeds from the games are used for charitable purposes. Where the operator of the game at an agricultural fair and exhibition conducted under the auspices of such an association is to be a person holding a concession to operate at the fair and exhibition from the association holding the same, such operator shall pay for the State license an annual fee of \$50.00 for each game to be operated at the fair and exhibition, but if said operator is a licensee under the “Amusement Games Licensing Law” <sup>1</sup> and has paid the annual fee of \$250.00 for a State license, he shall not be required to pay the said fee of \$50.00 for each game to be operated unless he operates more than five games, in which case he shall pay for the State license an additional annual fee of \$50.00 for each game in excess of five.

<sup>1</sup>Section 5:8-100 et seq.

**5:8-126. Municipal license; fee**

Where in any 1 year the agricultural fair and exhibition is held for a period not in excess of 30 days, the fee for the municipal license shall be \$5.00 or less for any 1 license.

5:8-127.           Act operative in municipalities adopting Amusement Games Licensing Law without further referendum

This supplemental act shall be operative in any municipality in which heretofore the “Amusement Games Licensing Law”<sup>1</sup> has become operative or which shall hereafter become operative by the action of the voters of the municipality upon the municipal referendum as provided in the said “Amusement Games Licensing Law” without any further referendum to the voters of the municipality in respect to this supplemental act.

<sup>1</sup>Section 5:8-100 et seq.

5:8-128.           Submission of act for approval by people

For the purpose of complying with the provisions of the State Constitution this supplemental act shall be submitted to the people for their approval or rejection at the next general election.

5:8-129.           Official ballot; contents

There shall be printed on each official ballot to be used at such election the following:

If you favor making the act entitled below operative within the State, make a cross X, plus + or check √ in the square opposite the word “Yes.”

If you are opposed to making the act entitled below so operative, make a cross X, plus + or check √ in the square opposite the word “No.”

<input type="checkbox"/>	Yes.	Shall the act entitled “An Act extending the ‘Amusement Games Licensing Law,’ being chapter 109 of the laws of 1959, (approved June 16, 1959 and effective November 3, 1959 by the approval of the voters of the State) to include associations organized for the purpose of holding fairs and exhibitions and the places where such agricultural fairs and exhibitions are held, supplementing said law, and providing for the submission of this act to the legal voters of the State for their approval or rejection before the same shall become operative within this State” become operative within this State?
<input type="checkbox"/>	No.	

The date of the approval or passage of this act, as the case may be, shall be inserted in the appropriate place after the title.

In any election district in which voting machines are used the question shall be placed upon the official ballot to be used upon the voting machines with the foregoing instructions to the voters but with instructions to vote “Yes” or “No” by the use of such machines and without marking as aforesaid.

5:8-130. Act effective upon approval by majority of votes cast

If at such election a majority of all the votes cast both for and against the approval of this act shall be cast in favor <sup>1</sup> the approval thereof, then all of its provisions shall forthwith take effect.

<sup>1</sup>So in enrolled bill.

# New Jersey Administrative Code

## Title 13, Chapter 3.

### Office of Amusement Games Control

#### SUBCHAPTER 1. ISSUANCE OF LICENSES BY MUNICIPAL GOVERNING BODIES

##### 13:3-1.1 Definitions: Location of games

- (a) The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

“Arcade” means a place where a single player may play any one of a number of machines or devices, upon payment of a fee, to attempt to obtain a prize or tickets or tokens redeemable for a prize, or to attempt to attain a score or result upon the basis of which a prize, ticket or token is awarded.

“Recognized amusement park” means a commercially operated permanent business, open to the public at least 31 consecutive days annually, whose acreage is designed and themed for the primary purpose of providing participatory amusements incorporating rides or water slides licensed in accordance with N.J.S.A. 5:3-31, et seq., and food and merchandise concessions in permanent structures. Nothing in this definition shall prevent a license from being issued in any location which has had a license issued prior to (the effective date of this amendment).

“Resort” means a place providing recreation and entertainment especially to visitors.

“Seashore resort” means a “resort” as defined in this subsection that borders tidal waters.

- (b) No amusement games license shall be issued in any municipality unless:
1. Such municipality has authorized the licensing of amusement games by referendum in the 1959 general election or subsequent referendum pursuant to P.L. 1959, c.109; and
  2. The premises to be licensed are situated at:
    - i. A recognized amusement park; or

- ii. A seashore or other resort but only in that part thereof customarily constituting an amusement or entertainment area according to the customary understanding of these terms in the community; or
- iii. A place where an association organized for the purpose of holding agricultural fairs and exhibitions which is approved by the State Department of Agriculture holds an agricultural fair and exhibition.

### 13:3-1.2 License restrictions

- (a) No license shall be issued to authorize the operation and conduct of any amusement game unless the game is:
  - 1. Played for amusement or entertainment;
  - 2. One in which the person or player actively participates;
  - 3. One in which the outcome is not in the control of the operator; and
  - 4. One which is so conducted that when and where all of the players are present there occurs in continuous sequence:
    - i. The sale of a right to participate;
    - ii. The event which determines whether a player wins or loses; and
    - iii. The award of a merchandise prize or tokens or tickets which may be accumulated or immediately redeemable for a merchandise prize.

### 13:3-1.3 Bingo or raffles

No license shall be issued under the Amusement Games Licensing Law (P.L. 1959, c.109) to authorize the holding, operation or conduct of any bingo game nor for any draw raffle.

### 13:3-1.4 Certification requirements

No license shall be issued to authorize the holding, operation or conduct of any game not certified as permissible by the Legalized Games of Chance Control Commission pursuant to N.J.A.C. 13:3-7, Certification, and any license issued with respect to any certified game shall authorize it to be held, operated and conducted only with the limitations and restrictions of its certification.



### 13:3-1.5 Requisites for municipal license

(a) No license shall be issued in any municipality unless and until an ordinance shall have been adopted by the municipal governing body:

1. Declaring that a recognized amusement park exists in the municipality or that the municipality is a seashore or other resort containing an amusement or entertainment area according to the customary understanding of such terms in the municipality or that the municipality contains a place where an agricultural fair and exhibition is held by an association organized for the purpose of holding agricultural fairs and exhibitions which is approved by the State Department of Agriculture;
2. Fixing an annual fee or fees, not subject to proration, for licenses to be issued in such amount or amounts as may be determined upon consideration of such factors as the number of days or period upon or during which the licensee shall be authorized to operate or conduct the games, the number of units employed therein, the number of places, the number of specific kinds of games to be conducted and the number of persons who may become players of the game at any one time, but in no case shall such fee be less than \$10.00 for any one license for a period of one year or for a lesser term except as to agricultural fairs and exhibitions where, in any one year, the fair and exhibition is held for a period not in excess of 30 days the fee for the municipal license shall be \$5.00 or less for any one license.

### 13:3-1.6 Restrictions on hours for amusement games

No license shall be issued to authorize the conduct of amusement games during hours or on days prohibited by municipal ordinance.

### 13:3-1.7 Premises with alcoholic beverage license

No license shall be issued for any premises licensed under any alcoholic beverage license.

### **13:3-1.8            Separate license required for each game and premises**

A separate license shall be issued for each specific kind of game authorized to be held, operated and conducted on the licensed premises by the licensee, and a separate license shall be issued for each place at which the licensee is authorized to hold, operate and conduct such game, except that a single license may be issued for all games classified under Certification No. 2 pursuant to N.J.A.C. 13:3-7.9(a)2 and operated in an arcade at a single location.

### **13:3-1.9            License term; investigation fees**

- (a) All licenses shall be issued on a calendar-year basis, with a maximum term from January 1 to December 31 of the year within which the license is to be operative, or for such shorter term within the year as may be fixed by law, ordinance or resolution.
- (b) In any event, the full annual fee as fixed by ordinance shall be payable without proration and shall accompany the license application.
- (c) In the event of denial or withdrawal of the application, or in the event of denial or withdrawal of application for State license filed with the Commission pursuant to N.J.A.C. 13:3-2, Issuance of Licenses, the full fee up to \$10.00 or 25 percent of the fee, whichever shall be the greater, shall be retained by the municipality as and for an investigation fee, and the remainder of the fee, if any, shall be refunded to the applicant.

### **13:3-1.10          Application form and license certificate**

- (a) Each application for license shall be submitted in duplicate in form prescribed by the Commission. The application requests information which includes the following: name and address of the applicant, type and location of the game, and identification of the business form.
- (b) The original shall be retained by the municipal governing body and, in the event the application is granted, the copy shall be transmitted forthwith to the Commission.

### 13:3-1.11 Fingerprinting

- (a) Each individual applicant, the officers, directors, and stockholders (including the officers, directors and stockholders of any corporation holding five percent or more of the capital stock) of any corporate applicant, as well as the partners or members as the case may be, of any partnership, association, or organization applicant, upon filing of an initial application or any employee of an applicant, may, if so required by the Commission or municipal governing body issuing a license, be fingerprinted under the supervision of the municipal chief of police.
- (b) The fingerprint records so obtained shall be marked "Applicant" and shall be submitted to the Federal Bureau of Investigation and the New Jersey State Police Bureau of Identification and upon receipt of returns from such Bureaus, the chief of police shall make report thereof to the municipal governing body, together with report of any other arrest or conviction record which may be obtained from other sources.
- (c) Failure or refusal of any of the above-designated persons to submit to fingerprinting shall be deemed cause for denial of the application.
- (d) Any fees for fingerprinting or any other investigations shall be paid for by the applicant.

### 13:3-1.12 Qualification of applicant; conviction of crime

No license shall be issued to any applicant if any of the persons required by N.J.A.C. 13:3-1.11 to be fingerprinted in connection with the application are not of good moral character or have ever been convicted of a crime unless the disqualification resulting from such conviction has been removed by the Commission pursuant to P.L. 1962, c.200.

### 13:3-1.13 Municipal resolution to authorize licenses

- (a) No license shall be issued in any municipality unless and until the issuance thereof has been authorized by a resolution duly adopted by the municipal governing body which resolution shall, among other things, specifically recite:
  - 1. That the premises to be licensed are located in a recognized amusement park in the municipality; or

2. That the municipality is a seashore or other resort and that the premises to be licensed are located in an amusement or entertainment area in such resort according to the customary understanding of such terms in the municipality; or
  3. That the municipality contains a place where an agricultural fair and exhibition is held by an association organized for the purpose of holding agricultural fairs and exhibitions which is approved by the State Department of Agriculture.
- (b) A certified copy of each such resolution, together with a copy of the application endorsed to show the granting of a municipal license, shall be transmitted to the Commission by the municipal governing body within three business days of the municipal license being granted.

#### 13:3-1.14 License certificate contents

- (a) Each license certificate shall indicate:
1. The name of the licensee;
  2. The address of the licensed premises;
  3. The name and detailed description of the kind of game licensed;
  4. The amount of fee paid;
  5. A statement of the dates and the hours between which such game may be conducted; and
  6. Such other information as may be required on a form prescribed by the Commission.

#### 13:3-1.15 Disposition of license certificate

- (a) After municipal approval and the Commission's approval, the license certificate shall be prepared in quadruplicate.
- (b) The original shall be delivered to the licensee.
- (c) One of the copies shall be delivered to the municipality to be made part of its licensing records.
- (d) The remaining two copies shall be retained by the Commission.

### **13:3-1.16      Amendment to license; notice**

- (a) Any license may be amended, upon application to the municipal governing body, a copy of which application must be submitted to the Commission, if the subject matter of the proposed amendment could lawfully and properly have been included in the original license, and upon payment of such additional license fee, if any, as would have been payable.
- (b) Notice of any such amendment shall be certified to the Commission by the municipal governing body within three days, along with a \$25.00 amendment fee, payable by the licensee to the Commission.
- (c) No licensee who has applied for an amended license shall operate a game other than that which has been licensed by the Commission until an amended license certificate has been issued.

### **13:3-1.17      Devolution of license upon death, bankruptcy, receivership or incompetency of licensee**

- (a) In case of death, bankruptcy, receivership or incompetency of the licensee, or if for any other reason the operation of the business covered by the license shall devolve by operation of law upon a person other than the licensee, application for extension of the license for a limited time, not exceeding its term, shall be made promptly by the executor, administrator, trustee, receiver or other person upon whom operation of the business covered by the license shall have devolved by operation of the law.
- (b) Application for such extension shall be made in the form of a petition addressed to and acted upon by the municipal governing body.
- (c) If the petition for extension is granted, the license certificate shall be appropriately endorsed by the municipal governing body, without fee, and a report of the extension shall be made to the Commission by the municipal governing body within 10 days.

### **13:3-1.18      Reporting change in application facts**

Whenever any change, including, but not limited to, a change of seasonal or permanent address, shall occur in the facts as set forth in any application for a license, the licensee shall file with the Commission and the municipal governing body a notice in writing of such change within 10 days after the occurrence.

### 13:3-1.19      Agriculture Department approval of agricultural fair license

No license shall be issued in any municipality for a place where an agricultural fair and exhibition is held unless and until a photostatic or other copy of the certificate of the State Department of Agriculture has been submitted to the municipality evidencing that the fair and exhibition is held by an association organized for the purpose of holding agricultural fairs and exhibitions and is approved by the Department for participation in any or all State-sponsored programs relative to the promotion of agriculture and the advancement of agricultural interests in New Jersey. A second copy of the certificate shall be transmitted to the Commission. A State license may be issued for a place where the agricultural fair and exhibition is to be held.

## SUBCHAPTER 2.      ISSUANCE OF LICENSES BY COMMISSION

### 13:3-2.1      Need for municipal license

No municipal approval of a license shall become operative unless and until the licensee shall have been issued the State license certificate by the Legalized Games of Chance Control Commission.

### 13:3-2.2      License fees

Application for a State license shall be made upon a form prescribed and furnished by the Commission, accompanied by the requisite fee in money order or certified check drawn to the order of the Legalized Games of Chance Control Commission in such amount as is prescribed by N.J.S.A. 5:8-102 for games at an amusement park or seashore resort, or other resort, or by N.J.S.A. 5:8-125 for games at an agricultural fair and exhibition.

### 13:3-2.3      Separate application and fee for specific games and separate premises

- (a) A separate application shall be made, and separate fee paid, for each specific kind of game to be authorized to be held, operated and conducted by the applicant pursuant to municipal and State license and for each place at which the applicant seeks authorization to hold, operate and conduct such game or games, except that a single license may be issued for all games classified under Certification No. 2 pursuant to N.J.A.C. 13:3-7.9(a)2 and operated in an arcade at a single location.

#### 13:3-2.4 Duration of license; prorating fees

- (a) All State licenses shall be issued on a calendar year basis with a maximum term from January 1 to December 31 of the year within which the license is to be operative, or for such shorter term within the year as may be fixed by the Commission to accord with the municipal license.
- (b) In any event, the full annual fee, where required, for each license shall be payable without proration.
- (c) In the event of denial or withdrawal, the Commission shall retain as and for an investigation fee, from the fee submitted with each application denied or withdrawn, the sum of \$10.00 and the remaining sum paid, if any, shall be refunded to the applicant.

#### 13:3-2.5 Reporting change of application facts

Whenever any change, including, but not limited to, a change of seasonal or permanent address, shall occur in the facts as set forth in any application for State license, the licensee shall file with the Commission a notice in writing of such change within 10 days after the occurrence.

#### 13:3-2.6 Cancellation of license

Any State license issued by the Commission may be cancelled in the event that after its issuance it appears that the municipal license rendered operative thereby has been issued in violation of any provision of the Amusement Games Control Law (P.L. 1959, c.108) or the Amusement Games Licensing Law (P.L. 1959, c.109) or any of the rules and regulations promulgated by the Commission.

### SUBCHAPTER 3. CONDUCT OF LICENSEES AND OPERATION OF LICENSED GAMES

#### 13:3-3.1 Conspicuous display of license

- (a) No licensee shall hold, operate, conduct or allow any amusement game on the licensed premises unless a current, original, license certificate is conspicuously posted.
- (b) The license certificate shall be maintained in a manner so that it may be easily read.
- (c) The license certificate shall be presented upon request without delay or interference to:
  - 1. An authorized representative of the licensing municipality;

2. Commission member or a Commission representative; or
  3. A member of the general public.
- (d) The person requesting the license certificate shall be afforded the opportunity to review and record any and all information on the license certificate.
- (e) A photocopy or other reproduction of the license certificate shall not be acceptable for purposes of compliance with this section. The original license certificate shall not be photocopied or reproduced.

#### **13:3-3.2 Method of operating licensed games**

- (a) No licensee shall hold, operate or conduct any licensed game which is inconsistent with the requirements, limitations and restrictions contained in the Permissible Amusement Games Certification Number in N.J.A.C. 13:3-7, Certification of Permissible Games, under which the license has been issued.
- (b) No licensee shall hold, operate or conduct any licensed game where the outcome of the game is controllable or may be influenced in any way by the operator by any arrangement, installation, plan or scheme, or by electrical, electronic, sonic, mechanical or other device, or allow, permit or suffer any such arrangement, installation or device on the license premises.

#### **13:3-3.3 Hours and days license in effect**

No licensee shall hold, operate or conduct or allow, permit or suffer the holding, operation or conduct of any amusement game on the licensed premises during hours or on days prohibited by municipal ordinance or during hours or on days not authorized by the license as indicated on the license certificate.

#### **13:3-3.4 Maximum fee for participation in game**

- (a) No licensee shall charge or accept, directly or indirectly, more than \$5.00 from any one player for an opportunity to participate in any one amusement game.
- (b) All prizes, or tickets or tokens redeemable for a prize, awarded in a game shall be awarded immediately upon completion of the game and before making or accepting a charge for participation in any subsequent game.



- (c) No charge may be made or accepted for participation in a game in excess of the posted charge for the opportunity to participate in the game. Nothing in this section shall be construed to prohibit a licensee from offering a discounted entry fee for multiple opportunities to participate in a single game not in excess of \$5.00.
- (d) Upon receipt of currency greater than the charge to play a game, the licensee shall immediately remit the appropriate change to the player.

### 13:3-3.5 Types of prizes permitted; value of prize

- (a) No licensee shall offer or give, directly or indirectly, any prize in any single amusement game except merchandise other than alcoholic beverages; drug or narcotic paraphernalia; obscene or indecent recordings, printings, writing, pictures or other matter; or weapons as defined in N.J.S.A. 2C:39-1r.
- (b) The retail value of such merchandise prize or prizes to be offered or awarded in any game or for an accumulation of wins from a series of games or plays shall not exceed an average retail value of \$5,000.
  - 1. There shall be no limit on the time within which tokens or tickets must be redeemed in any arcade licensed pursuant to N.J.A.C. 13:3-7.9(a)2 under Certification No. 2, or in any “Skilo” and “Fascination” parlor licensed pursuant to N.J.A.C. 13:3-7.9(a)4 under Certification No. 4.
  - 2. The transfer of any arcade or parlor license in N.J.A.C. 13:3-7.9(a) 2 or (a)4 under Certification Nos. 2 or 4 (“Skilo” or “Fascination” only) shall specifically provide that all tickets and tokens awarded by the transferor shall be honored by the transferee.
- (c) All winners shall be determined and all prizes or tickets or tokens that may be accumulated for a prize shall be awarded in any game forthwith upon the completion of the game and before making or accepting any charge for participation in any subsequent game or play.
- (d) Where games licensed and certified pursuant to N.J.A.C. 13:3-7.9(a) 1, 3, 5, 6, 7, 8 or 9 are operated in conjunction with an arcade licensed pursuant to N.J.A.C. 13:3-7.9(a)2 under Certification No. 2, such arcade may also award as prizes tickets redeemable toward merchandise prizes available in the arcade, provided that the value

of any single prize ticket shall not permit redemption for a prize valued in excess of an average retail value of \$5,000. Such tickets may be combined with tickets or tokens awarded in the arcade for redemption purposes.

#### **13:3-3.6          Determination of value of prizes**

- (a) No licensee shall offer, award or display any prize in the licensed premises which prize's retail value is in excess of the limits established in N.J.A.C. 13:3-3.5(b).
- (b) For the purpose of this subchapter, the "average retail value" of the merchandise awarded as prizes shall be based on the manufacturer's suggested retail price or commonly advertised price.

#### **13:3-3.7          Redemption of prize or cash**

- (a) No licensee shall redeem for money or for the playing of any additional game, any prize, ticket or token or allow, permit or participate in such redemption.
- (b) Notwithstanding (a) above, a licensee may, at the conclusion of the game and at the player's option, award an additional game as a prize when operating an amusement game certified pursuant to N.J.A.C. 13:3-7.9(a)2.

#### **13:3-3.8          Deceptive, fraudulent or misleading advertising or practice; conduct of games**

- (a) No licensee shall allow or engage in any deceptive, misleading or fraudulent advertising or practice in connection with the holding, operating or conducting of any licensed game.
- (b) All games, including free, sample or tryout games, must be conducted in their original certified form. No licensee or operator shall demonstrate any game from any position other than the position from which the player will participate.
- (c) All prizes that are available to be won shall be displayed, and requirements to win such prizes shall be clearly stated. If multiple wins are required for a prize, such requirements shall be clearly posted.

### 13:3-3.9 Employees qualification, list

- (a) No licensee shall employ in any capacity on the licensed premises any person who would fail to qualify as a licensee by reason of conviction of a crime or otherwise.
- (b) The licensee may require employees to complete an application or affidavit certifying the employee's eligibility for employment under the terms of this section.

### 13:3-3.10 Fingerprinting employees

No licensee shall employ or have connected with him in any business capacity whatsoever any adult person who refuses to submit himself or herself for fingerprinting when required to do so by any agent of the municipal governing body concerned or the Commission.

### 13:3-3.11 Interest held in business by person other than licensee

No licensee shall allow any person other than the licensee to exercise or attempt to exercise, or hold himself or herself out as authorized to exercise, the rights and privileges of the license issued to the licensee, or allow any person other than the licensee to share in the profits of the licensed business except by way of *bona fide* rental agreements with landlords, *bona fide* commission or bonus agreements with operating personnel, first approved by the Commission.

### 13:3-3.12 Law enforcement officers holding business interest

No license shall be held by any regular police officer, any peace officer or any other person whose powers or duties include the enforcement of the Amusement Games Control Law or the Amusement Games Licensing Law or the Legalized Games of Chance Control Commission Regulations governing amusement games, or by any profit corporation or association in which any such officer or person is interested, directly or indirectly, nor shall any licensee employ or have connected with him in any business capacity whatsoever any such officer or person.

### 13:3-3.13 Hindering inspection or investigation

No licensee or employee, agent or representative shall, directly or indirectly, hinder or delay or cause the hindrance or delay of any investigation by the Commission or the municipal governing body or its agents, or fail to facilitate such inspection or investigation in anyway whatsoever.

### 13:3-3.14 Requirement for license

No licensee shall hold, operate or conduct on the licensed premises any unlicensed game required to be licensed pursuant to the Amusement Games Control Law or the Amusement Games Licensing Law or the Legalized Games of Chance Control Commission Regulations.

### 13:3-3.15 Gambling on licensed premises

No licensee shall allow on the licensed premises any playing for money or other valuable thing at any game other than that permitted by the license issued pursuant to the application and description of the game for that licensed premises, and in no event shall any prize be conditioned in any way upon any occurrence at or upon the outcome of any athletic, sporting game or contest or lottery.

### 13:3-3.16 Licensee responsible for acts of employees

- (a) In any disciplinary proceedings to suspend or revoke any amusement games license, it shall be sufficient, in order to establish the guilt of the licensee, to show that the violation was committed by an agent, servant or employee of the licensee.
- (b) The fact that the licensee did not participate in the violation or that his agent, representative or employee acted contrary to instructions given to him by the licensee or that the violation did not occur in the licensee's presence, shall constitute no defense to the charges preferred in such disciplinary proceedings.

### 13:3-3.17 Required signs

- (a) Rules and instructions for the game shall be clearly and conspicuously posted on a sign entitled "Rules." Minimum size for rule signs is 8 1/2 inches by 11 inches with readable letters at least one-half inch high. The color of the print and background material shall be contrasting.
- (b) The price to play shall be clearly posted and visible from all player positions. If the price to play is not on the rules sign, it shall be on a sign with the minimum dimensions of five inches by five inches, with the color of the print and background material contrasting.

## **SUBCHAPTER 4. SUBMISSION OF REPORTS BY LICENSEES**

### **13:3-4.1 Books of account, entries; inspection**

Every licensee shall keep a true book or books of account in which the licensee shall enter all moneys received and the specific source of such receipts, all moneys expended from such receipts, and the name of the person receiving such expenditures, and the purpose for which such expenditures were made. All books and records pertaining to such receipts or expenditures shall be made available for inspection by the Legalized Games of Chance Control Commission and the municipal governing body and their agents.

### **13:3-4.2 Invoices of cost of prizes retained**

Every licensee shall retain for a period of one year from the date thereof, all delivery slips, invoices, manifests, waybills or similar documents received from suppliers of merchandise to be awarded as prizes. These records shall be readily available for inspection by agents of the Commission.

### **13:3-4.3 Report of conduct of game by licensee**

- (a) Every licensee shall, not later than the 15th day of May, file with the Commission a report of the conduct of games for the previous license year or period, in a form prescribed by the Commission.
- (b) Such reports shall contain information relating to type of games, number of days game operated, income, prizes and operating expenses, and shall be fully and truthfully completed, without fraud, misrepresentations, false or misleading statements, or evasion or suppression of any fact.

### **13:3-4.4 Reports confidential**

Reports required to be submitted, and the information contained therein, shall not be disclosed by the Commission except so far as may be necessary for the purpose of carrying out the provisions of the Amusement Games Control Law (P.L. 1959 c.108) and the Amusement Games Licensing Law (P.L. 1959 c.109).

### **13:3-4.5 Failure to file report; incomplete report; false report**

Failure or refusal by any licensee to make timely filing of any report required by this subchapter, or the filing of any report either incomplete or false in fact, shall constitute cause for suspension or revocation of license or bar to future license.

## SUBCHAPTER 5. DISCIPLINARY PROCEEDINGS

### 13:3-5.1 Five-day notice prior to hearing; violation specified

- (a) No license shall be suspended or revoked until a five-day notice of the alleged violation against the licensee shall have been given to him personally or by mailing the same by certified mail addressed to him at the licensed premises or at the address listed on the application for licensure and a reasonable opportunity to be heard thereon afforded to the licensee.
- (b) If brought by the Legalized Games of Chance Control Commission, such charges shall be signed in the name of the Commission or, if brought by a municipal governing body, such charges shall be signed in the name of such governing body and shall specify the section of the law or the rule and regulation alleged to have been violated and the time and place fixed for the hearing.

### 13:3-5.2 Uncontested disciplinary proceedings

- (a) At any time prior to two days before the date fixed for hearing, the licensee may enter a written plea of guilty or non vult to the charges and, thereafter, no hearing shall be held therein.
- (b) Where a written plea of guilty or non vult is received, written argument as to penalty may be submitted to the Commission or to the municipal governing body, as the case may be, simultaneously with the entry of the plea.

### 13:3-5.3 Conduct of hearing

Hearings shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 and 52:14F-1, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

### 13:3-5.4 Commission's decision changing penalty

The Commission may adopt, modify or reject the initial decision; provided, however, that the Commission shall not increase any recommended penalty or change a recommended finding of not guilty without first affording the licensee an opportunity to present oral argument before the Commission.

### 13:3-5.5 Transmittal of charges and result to Commission

When charges have been preferred against a licensee by the governing body of any municipality, such governing body shall transmit to the Commission forthwith a copy of such charges and, when the charges have been finally adjudicated, a copy of the Resolution and Order shall be promptly transmitted to the Commission.

### 13:3-5.6 Proceeding not barred by license expiration

Disciplinary proceedings shall not be barred or abated by the expiration or extension of the license.

### 13:3-5.7 Results of proceeding affects subsequent license

Any license may be denied, suspended or revoked, and any licensee may be subject to civil penalties for proper cause, notwithstanding that such cause arose prior to the extension of the license or during the term of a prior license held by the licensee.

### 13:3-5.8 Conditions for penalty carryover

- (a) Where disciplinary proceedings are instituted and the license is extended or expires during the pendency, such proceedings shall be carried through to completion and any order of suspension or revocation shall apply without further proceedings to the extended license or to any new license issued to:
  - 1. The licensee; or
  - 2. Any partnership of which he is a partner; or
  - 3. Any corporation of which such individual licensee is an officer, director or stockholder; or
  - 4. Any individual who was an officer, director or stockholder of a corporation against which such a proceeding is pending.

### 13:3-5.9 Hearings; Conclusions or Resolutions and Order

- (a) After the hearing or upon receipt of a guilty or non vult plea upon charges by the governing body of the municipality, the governing body shall make a written determination of the licensee's guilt or innocence which shall be in the form of a Resolution and Order. The Resolution and Order shall set forth the final determination of guilt or innocence, designate the effective date of any suspension or revocation and, in the case of suspension, the term of the sus-

pension and any conditions deemed appropriate. A copy of the Resolution and Order shall be served upon the licensee personally or by mailing by certified mail addressed to the licensee at the licensed premises or at the address listed on the application for licensure.

- (b) In contested cases, the Commission's decision shall be issued pursuant to the Administrative Procedure Act. A copy of the decision shall be served upon the licensee personally or by mailing by certified mail addressed to the licensee at the licensed premises or at the address listed on the application for licensure.

## **SUBCHAPTER 6. APPEALS**

### **13:3-6.1 Method of appeal to Commission**

- (a) All appeals to the Legalized Games of Chance Control Commission from any refusal to issue a license or any suspension or revocation of a license by a municipal governing body shall be taken by filing with the municipal governing body a written notice of appeal, accompanied by a petition of appeal, within 30 days after the determination or action appealed from.
- (b) The notice of appeal and the petition of appeal shall be entitled in the name of the licensee as appellant and the name of the municipal governing body as respondent.
- (c) The petition of appeal shall set forth the subject matter of the appeal, the action of the municipal governing body, the relief sought and the grounds therefor.
- (d) The appellant shall file with the Commission forthwith a true copy of the notice of appeal and a true copy of the petition of appeal, together with an acknowledgment or affidavit of service of the originals upon respondent.

### **13:3-6.2 Respondent's reply to appeal**

- (a) Within five days after service of the notice and petition of appeal, the respondent shall file an answer with the Commission and mail a copy of the answer to appellant or his attorney.
- (b) The answer shall include a statement of the grounds for respondent's action.



### 13:3-6.3 Stay of penalty

An appeal from a suspension or revocation shall automatically act as a stay of said suspension or revocation pending final determination of the appeal, unless the Commission shall otherwise order in writing.

### 13:3-6.4 Appeals

- (a) Appeals shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 and 52:14F-1 and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.
- (b) All appeals shall be heard de novo but the burden of establishing that the action of the respondent was erroneous and should be reversed shall rest with the appellant.

### 13:3-6.5 Commission's decision

- (a) The decision of the Commission shall be issued pursuant to the Administrative Procedure Act.
- (b) A copy of the opinion shall be mailed to the parties or their attorneys.

### 13:3-6.6 Stay or extension subject to outcome of appeal

When appeal is taken in any matter, any extension, pursuant to N.J.A.C. 13:3-1.17 (Devolution of license) of any license involved therein shall be subject to the ultimate outcome of such appeal, unless otherwise ordered by the Commission for proper cause.

## SUBCHAPTER 7. CERTIFICATION OF PERMISSIBLE GAMES BY COMMISSION

### 13:3-7.1 Certification of kinds of games

- (a) The Legalized Games of Chance Control Commission shall grant certifications of permissibility of any amusement games which may be played for amusement or entertainment, in which the person or player actively participates and the outcome of which is not in the control of the operator, and which is so conducted that the sale of a right to participate, the event which determines whether a player wins or loses and the award of the prize, tickets or token, all occur as a continuous sequence at the time and place where the player or players are all present.

- (b) Such certifications shall be effective generally as to all licenses issued and to be issued with respect to the specific kind of game which is the subject of the certification unless otherwise restricted.

### 13:3-7.2 Application for certification; contents; fees

- (a) Applications for certification with respect to any game not already the subject of certification may be made to the Commission and shall set forth the following information:
1. The name of the game;
  2. Its type or kind;
  3. Description of equipment used in its play, including photographs, sketches and diagrams thereof, if necessary or if required by the Commission;
  4. Method and rules of play;
  5. Method of determination of winner or winners;
  6. Number of players who may participate;
  7. Length of play of each game;
  8. Extent of player participation;
  9. Whether the game is controllable by the operator; and
  10. Such other information as will facilitate determination of the application.
- (b) Every application for certification shall be accompanied by a non-refundable fee of \$100.00 payable to the Legalized Games of Chance Control Commission.

### 13:3-7.3 Right to restrict specific terms of certification

Any certification of permissibility may restrict the number of places or the number of specific kinds of games which may be held, operated or conducted by any one licensee, directly or indirectly, and by the imposition of such other controls as the Commission shall deem suitable and proper.

### 13:3-7.4 Amendments of certifications

Certifications of permissibility may be granted by the Commission in terms applicable to more than one of certain named or described games, all of which are similar in specific kind, and such certifications may be amended

from time to time to include additional games differently named or described, but similar in specific kind to those previously certified.

#### **13:3-7.5            Numbering of certifications**

Each certification of permissibility granted by the Commission shall bear a serial number, which number shall be included in the description of the game to be licensed in the application for license and the license certificate to be issued in connection therewith.

#### **13:3-7.6            Cancellation of certification**

- (a) Any certification of permissibility may be cancelled and vacated or modified by the Commission in its sound discretion at any time, either specifically as to a particular license or licenses, or generally as to all licenses issued on the basis of the particular certification, whereupon such licenses as may be affected, shall, 30 days after the cancellation and vacation, no longer authorize the holding, operation or conduct of the game which was the subject of the certification, or shall authorize the holding, operating and conduct of the game only in such manner as accords with the modified certification in the event of its modification.
- (b) Before any cancellation and vacation of a certification shall occur, any licensee operating a game under such certification shall be given notice and afforded a reasonable opportunity to be heard by the Commission.

#### **13:3-7.7            Furnishing certifications to governing bodies**

The Commission shall furnish to each municipal governing body authorized to issue amusement games licenses a copy of every certification of permissibility granted by the Commission, together with a copy of all amendments, modifications and supplements and any cancellations or vacations of such certifications.

#### **13:3-7.8            Games authorized only in respect to particular certification**

Any license issued to authorize the holding, operation and conduct of any kind of amusement game shall be deemed to authorize such holding, operation and conduct only in the manner and to the extent certified as permissible by the certification of permissibility granted with respect to such game.

### 13:3-7.9 Permissible amusement games certifications

(a) Pursuant to P.L. 1959, c.108 and this subchapter there is hereby granted certification of permissibility for licensing of the following amusement games:

1. Certification No. 1. Throw games wherein a single player upon payment of fee is furnished a number of balls, hoops, darts or other objects, or uses his own coins to be handthrown, rolled or propelled at, into, or upon targets, with prizes awarded according to results achieved, generally known as a Basketball game, Dart game, Coin Pitch game, Roll Down game, Bushel Basket Ball Toss game and such similar games:
  - i. Only one of the above games may be licensed under one license.
  - ii. There is no restriction on the number of units that may comprise the game.
2. Certification No. 2. Arcade games wherein a single player upon payment of fee is permitted to play a machine or device to obtain a prize or attain to score upon the basis of which a prize is awarded, generally known as a Crane machine, Skee-ball, Wacky Gator, Rotary Merchandiser, Silver Ski's Coin Pusher, Hoop Shoot and such similar games, including electronic games, as may from time to time be certified pursuant to this subchapter.
  - i. There is no restriction on the number of machines or devices that may be installed or available under one arcade license.
  - ii. If any machine or device has more than one player position, each player position shall be considered a separate machine or device in calculating the State license fee.
3. Certification No. 3. Games wherein a single player upon payment of fee is permitted to make a blind selection of one object from a number of objects, the object selected being the prize won or indicating the prize won, generally known as Duck Pond Game, Fish Pond Game, Grab-bag Game and Pick-the-Stick Game, and such similar games as may from time to time be certified pursuant to this subchapter.

4. Certification No. 4. Competitive games wherein several players upon payment of fee are permitted to compete against each other for a prize to be awarded to the player who first achieves the required result, generally known as Bowlo Game, Fascination Game, Greyhound Game, Skilo Game, Throw Fascination Game, and Water Gun Game, and such similar games as may from time to time be certified pursuant to this subchapter. A Stop and Go Game type of installation, as set forth in (a)5 below (Certification No. 5), and subject to the same requirements, limitations and restrictions contained in (a)5 below, may be utilized in the conduct of such games.
  - i. Only one of the above games may be licensed under one license.
  - ii. There is no restriction on the number of units that may comprise the game.
5. Certification No. 5. A game incorporating:
  - i. A laydown board marked in segments bearing numbers, names or symbols whereon the player or players place the entry fee as an indication of choice of expected winner;
  - ii. Electrical push-button switches or similar devices approved by the Commission at each segment on the board which enable any player to start or deactivate the game;
  - iii. A moving indicator powered and driven by an electric motor which may be activated and deactivated by any player by means of the switches provided; and
  - iv. An arrangement of numbers, names or symbols, corresponding to those on the laydown board to one of which the moving indicator points when it stops after exhausting its momentum following deactivation of the motor, generally known as Stop and Go Game; provided however, the mechanism may not incorporate any clutch, brake or timing device except a timing device which renders all of the stop switches inoperative for a short period of time after any starting switch is activated, nor may the electric motor be activated or deactivated by anyone other than a player or players.
6. Certification No. 6. Guessing games wherein in a single player upon payment of fee is entitled to win a prize in the event that

the operator is unable to guess, within announced limits, the weight or age of the player, generally known as Guess Your Weight Game and Guess Your Age Game.

7. Certification No. 7. A game wherein a single player upon payment of fee is entitled to win a prize in the event that within a permitted number of tries he rings a bell or gong a required number of times by striking with a maul one end of a horizontal level arm the other end of which propels a weight upward along a vertical wire at the top of which the bell or gong is located, generally known as Ring The Bell Game or High Striker Game; provided however, only one unit may be licensed under one license.
8. Certification No. 8. Miscellaneous skill games wherein a single player upon payment of a fee is entitled to use a physical skill to attain a predetermined goal for which a prize is awarded, generally known as Log Roll and Rope Climb, and such similar games as may from time to time be certified pursuant to this subchapter.
9. Certification No. 9. A game of chance incorporating a laydown board marked in segments bearing numbers, names or symbols whereon the player or players place the entry fee as an indication of the choice of expected winner, which is determined by a nonelectrical and nonmechanical device, set in motion by a player or players, coming to rest, generally known as Pan Game, Crazy Ball and Crazy Block.
  - i. Only one of the above games may be licensed under one license.

#### SUBCHAPTER 8. (RESERVED)

# New Jersey Administrative Code

## Title 13, Chapter 45C.

### Uniform Regulations

#### SUBCHAPTER 1. LICENSEE DUTY TO COOPERATE AND TO COMPLY WITH BOARD ORDERS

##### 13:45C-1.1 Applicability, scope and definitions

- (a) This subchapter shall apply to all licensees of any board, committee or sub-unit within the Division of Consumer Affairs.
- (b) For the purpose of this subchapter, “licensee” shall mean any licensee, permittee, certificate holder or registrant of:
  - 1. The Division of Consumer Affairs;
  - 2. Any professional or occupational licensing board within the Office of Professional/Occupational Boards and any committee, or other subunit of a board or committee located within the Division;
  - 3. The Office of Consumer Protection; or
  - 4. The Legalized Games of Chance Control Commission.

##### 13:45C-1.2 Licensee’s duty to cooperate in investigative inquiries

- (a) A licensee shall cooperate in any inquiry, inspection or investigation conducted by, or on behalf of, a board, the Director or the licensee’s licensing agency into a licensee’s conduct, fitness or capacity to engage in a licensed profession or occupation where said inquiry is intended to evaluate such conduct, fitness or capacity for compliance with applicable statutory or regulatory provisions.
- (b) A licensee’s failure to cooperate, absent good cause or bona fide claim of a privilege not identified in N.J.A.C. 13:45C-1.5 as unavailable, may be deemed by the board, the Director, or the licensing agency to constitute professional or occupational misconduct within the meaning of N.J.S.A. 45:1- 21(e) or the agency’s enabling act and thus subject a licensee to disciplinary action pursuant to N.J.S.A. 45:1-21(h) or the agency’s enabling act.

### 13:45C-1.3 Specific conduct deemed failure to cooperate

(a) The following conduct by a licensee may be deemed a failure to cooperate and, therefore, professional or occupational misconduct and grounds for suspension or revocation of licensure:

1. The failure to timely respond to an inquiry to provide information in response to a complaint received concerning licensee conduct;
2. The failure to timely provide records related to licensee conduct;
3. The failure to attend any scheduled proceeding at which the licensee's appearance is directed. In the event that a licensee elects to retain counsel for the purpose of representation in any such proceeding, it shall be the licensee's responsibility to do so in a timely fashion. The failure of a licensee to retain counsel, absent a showing of good cause therefor, shall not cause an adjournment of the proceeding;
4. The failure to timely respond or to provide information requested pursuant to a demand under N.J.S.A. 45:1-18 or other applicable law or to provide access to any premises from which a licensed profession or occupation is conducted. Included within this paragraph shall be the failure to respond to any demand for statement or report under oath, the failure to permit the examination of any goods, ware or item used in the rendition of the professional or occupational service and the failure to grant access to records, books or other documents utilized in the practice of the occupation or profession;
5. The failure to answer any question pertinent to inquiry made pursuant to N.J.S.A. 45:1-18 or other applicable law unless the response to said question is subject to a bona fide claim of privilege;
6. The failure to make proper and timely response by way of appearance or production of documents to any subpoena issued pursuant to N.J.S.A. 45:1-18 or as may otherwise be provided by law; or
7. The failure to provide to the Board, the Director or the licensing agency timely notice of any change of address from that which appears on the licensee's most recent license renewal or application.



**13:45C-1.4 Failure to comply with Board orders as professional or occupational misconduct**

The failure of a licensee to comply with an order duly entered and served upon the licensee or of which the licensee has knowledge shall be deemed professional or occupational misconduct.

**13:45C-1.5 Unavailability of privileges in investigative or disciplinary proceedings**

- (a) In any investigative inquiry conducted pursuant to N.J.S.A. 45:1-18 or in any disciplinary proceeding conducted pursuant to N.J.S.A. 45:1-21, or as may otherwise be authorized by law, the physician-patient privilege, psychologist-patient privilege, marriage and family therapist-client privilege, professional counselor-client privilege, associate counselor-client privilege, social worker-client privilege and the alcohol and drug counselor-client privilege shall be unavailable.
- (b) Any statements or records otherwise subject to a claim of the stated privileges which may be obtained by the Board, its agent or the Attorney General pursuant to N.J.S.A. 45:1-18 shall remain confidential and shall not be disclosed unless so ordered by a court of competent jurisdiction, the appropriate licensing board or the Office of Administrative Law in a contested case.

**13:45C-1.6 Maintenance of and access to statements, records or other information that is subject to a privilege declared unavailable**

- (a) Any statements, records or other information which may be subject to any privilege declared unavailable in this subchapter shall be maintained in a secure place and manner by:
  - 1. The evidence custodian within the Division of Consumer Affairs, Enforcement Bureau;
  - 2. The professional or occupational licensing board and the committee or other subunit of a board or committee located within the Division which has a direct connection with, or a need for access to, the matter to which the statements, records or other information pertain; or
  - 3. A Deputy Attorney General.

- (b) Except as may be otherwise ordered as provided in the subchapter, access to statements, records or other information shall be afforded only to employees of the Attorney General, the Enforcement Bureau, or the Board or other subunit of the Division having a direct connection with, or a need for access to, the matter to which the statement, records or other information pertain.
- (c) The statements, records or other information shall be retained only for the period of time during which an investigation remains open or until the completion of all administrative or judicial proceedings relating thereto, at which time they shall be returned to the licensee or other person from whom they were obtained. In the absence of such licensee or other person, the statements, records or other information shall be returned to the patient, where appropriate.